



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2018-0100; Notice 1]

Daimler Trucks North America, Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Daimler Trucks North America (DTNA) has determined that certain model year (MY) 2010-2018 DTNA motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment*. DTNA filed a noncompliance report dated September 19, 2018. DTNA subsequently petitioned NHTSA on October 11, 2018, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces receipt of DTNA's petition.

DATES: The closing date for comments on the petition is **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket number cited in the title of this notice and may be submitted by any of the following methods:

- Mail: Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590.
- Hand Delivery: Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except for Federal Holidays.
- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments.

Note that all comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and considered. All comments and supporting materials received after the closing date will also be filed and considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at <https://www.regulations.gov> by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000, (65 FR 19477-78).

SUPPLEMENTARY INFORMATION:

I. Overview: DTNA has determined that certain MY 2011-2019 DTNA motor vehicles do not fully comply with paragraph S6.2 of FMVSS No. 108, *Lamps, Reflective Devices, and Associated Equipment*.

(49 CFR 571.108). DTNA filed a noncompliance report dated September 19, 2018, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. DTNA subsequently petitioned NHTSA on October 11, 2018, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of DTNA petition is published under 49 U.S.C. 30118 and 30120, and does not represent any agency decision or other exercises of judgment concerning the merits of the petition.

II. Vehicles Involved: Approximately 14,340 MY 2011-2019 Western Star 4700 and 4900, Freightliner Business Class M2, 114SD, 108SD, 122SD, and Coronado motor vehicles, manufactured between May 4, 2010, and August 23, 2018, are potentially involved.

III. Noncompliance: DTNA stated that the noncompliance is that the brake lights, in the subject vehicles, illuminate with Automatic Traction Control (ATC) activation and, therefore, do not meet the requirements specified in S6.2.1 of FMVSS No. 108.

IV. Rule Requirements: Paragraph S6.2.1 of FMVSS No. 108, includes the requirements relevant to this petition:

- No additional lamp, reflective device, or other motor vehicles equipment is permitted to be installed that impairs the effectiveness of lighting equipment required by this FMVSS No. 108.

V. Summary of DTNA Petition: DTNA described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, DTNA submitted the following reasoning:

1. FMVSS No.108 paragraph S6.2.1 states that "No additional lamp, reflective device, or other motor vehicle equipment is permitted to be installed that impairs the effectiveness of lighting equipment required by" Standard No. 108. DTNA cited an interpretation response to GM dated May 20, 2000, where NHTSA stated that brake lights should not be illuminated for ATC and concluded that installation of traction control systems, or any other equipment, that activates the stop lamps for purposes other than to indicate that the vehicle is stopping or slowing is prohibited by S5.1.3 and would create a noncompliance with Standard No. 108.

2. ATC events occur during low traction conditions such as snow, ice and mud. The duration of the event can be very short and may not even be noticed by the following driver. If brake light illumination for an ATC event is noticed, it would help to provide early warning of an adverse road condition ahead and encourage the following driver to slow down.

3. Below are several examples of ATC events:

a. Taking off from a stop

ATC can be very helpful to a driver when taking off from a stop in low traction conditions. From time to time a vehicle will park with one drive axle wheel end right over a patch of ice, and without ATC, it can be difficult to take off. This happens after the vehicle has been stopped and is trying to move. It seems unlikely that the activation of the brake lights during this ATC event would cause a safety concern to following drivers since the vehicle is stationary.

b. Low speed

At low speed, hazard warning lights are commonly used to warn other drivers of adverse road conditions such as those that are in effect when an ATC event may occur. Since the hazard lights may

already be applied in this case, the addition of momentary brake light activation is unlikely to cause confusion.

NHTSA has stated in Docket No. NHTSA-2000-7312 (referenced below) that the momentary activation of the Center High Mounted Stop Lamp (CHMSL) and hazard warning lamps can augment the message that extra attention should be given to the leading vehicle. This is precisely the situation with low speed ATC events.

c. High Speed

For an ATC event to occur at high speed, it would signify that road conditions have changed rapidly. One way it could happen is if the vehicle has been climbing a hill on dry roads in sub-freezing conditions and crosses a patch of ice. This causes a wheel to lose traction and the ATC applies brake force to that wheel end. The torque is transferred to other wheel ends causing a momentary brake light illumination. If it is a small ice patch, the event may be over and the vehicle may continue on its way. If the ice patch is large, it is imperative that the vehicle slows down to a safe speed under slick conditions and warns others of the impending

slowdown. As soon as slick road conditions are noticed and wheels begin to slip, the driver would let up on the throttle.

Brakes are commonly applied causing the brake lights to illuminate when a driver sees or senses a change in road conditions such as an icy patch. Reducing vehicle speed in adverse conditions increases safety, so signaling changing road conditions to following drivers would improve safety and give them the opportunity to increase the following distance. Department of Transportation guidance supports this goal:

- o NHTSA's Winter Driving Tips says: "Drive slowly. It's harder to control or stop your vehicle on a slick or snow-covered road. Increase your following distance enough so that you'll have plenty of time to stop for vehicles ahead of you."
- o FMCSA released CMV Driving Tips; Tip#1 is:
Reduce Your Driving Speed in Adverse Road and/or Weather Conditions. "You should reduce your speed by 1/3 on wet roads and by 1/2 or more on snow packed roads (i.e., if you would normally be traveling at a speed of 60 mph on dry pavement, then on a wet road you should reduce your speed to 40

mph, and on a snow-packed road you should reduce your speed to 30 mph). When you come upon slick, icy roads you should drive slowly and cautiously and pull off the road if you can no longer safely control the vehicle."

In addition to the lack of safety impact from brake illumination under the various ATC activation conditions taking off from stop; low speed; or high speed DTNA is not aware of any accidents, injuries, owner complaints or field reports for brake light illumination for ATC events concerning the subject vehicles.

4. DTNA notes that NHTSA has previously granted petitions for decisions of inconsequential noncompliance for lighting requirements where a technical noncompliance exists, but does not create a negative impact on safety.
5. In Docket No. NHTSA-2000-7312 (published on June 18, 2001) a Petition for inconsequentiality by GM was granted by NHTSA. In this instance, certain models could have unintended CHMSL illumination briefly if the hazard warning lamp switch is depressed to its limit of travel. NHTSA stated: "The intended use of a hazard warning lamp and the momentary activation of a CHMSL do not provide a

conflicting message. The illumination of the CHMSL is intended to signify that the vehicles brakes are being applied and that the vehicle might be decelerating. Hazard warning lamps are intended as a more general message to nearby drivers that extra attention should be given to the vehicle. A brief illumination of the CHMSL while activating the hazard warning lamps would not confuse the intended general message, nor would the brief illumination in the absence of the other brake lamps cause confusion that the brakes were unintentionally applied."

6. DTNA believes that the same situation exists in the present case, with temporary illumination of the brake lamps during ATC activation. The temporary brake light illumination serves to emphasize the message to following drivers that adverse or unusual road conditions may exist and they should pay close attention.

7. In Docket No. NHTSA-2014-0125 (published on Feb 02, 2018) a Petition for inconsequentiality by GM was granted by NHTSA. In this instance, under certain conditions the parking lamps on the subject vehicles fail to meet the requirement that parking lamps must be activated when headlamps are activated in a steady burning state. NHTSA stated:"...The Agency agrees with GM that in this case

this situation would have a low probability of occurrence and, if it should occur, it would neither be long lasting nor likely to occur during a period when parking lamps are generally in use. Importantly, when the noncompliance does occur, other lamps remain functional. The combination of all of the factors, specific to this case, abate the risk to safety."

DTNA concluded by expressing the belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

DTNA's complete petition and all supporting documents are available by logging onto the Federal Docket Management System (FDMS) website at: <https://www.regulations.gov> and following the online search instructions to locate the docket number listed in the title of this notice.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or

noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that DTNA no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after DTNA notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

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